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Remarks:

In the June 3, 2004 Office Action, the Examiner rejected Claims 1-14 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. More specifically, the Examiner noted that the terms "substantially" and/or "predetermined location", as recited within Claims 1, 2, 4, 7, 8, and 10, rendered the claims indefinite since the metes and bounds of the claims could not be determined.

The Examiner further rejected Claims 1-14 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,737,192 to Hirsch. More specifically, the Examiner stated that Hirsch discloses a combine having every feature of the claimed invention including the capability of "raising the cab relative to a frame portion and thus creating a space (as shown in Fig. 2 [of Hirsch]) sufficient for installation of the rotor or any other parts."

35 U.S.C. §112, Second Paragraph, Rejection

The Applicants would like to first express their gratitude to Examiner Kovacs for participating in a July 21, 2004 telephone interview in which the Applicants and Examiner discussed some proposed claim amendments, faxed to the Examiner on July 19, 2004. Specifically, during the interview, the Applicants noted the Examiner's indefiniteness rejections and indicated a willingness to amend the claims so as to alleviate the rejection.

Accordingly, the Applicants hereby amend Claims 1, 2, 4, 7, 8, and 10 to more particularly identify the metes and bounds of the claims. More particularly, the Applicants have deleted the terms "substantially" and "predetermined location" from the claim language. In

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place, the Applicants inserted the language "first position" and "second position" to identify the positioning and movement of the cab relative to the fixed harvesting combine frame portion and body. Accordingly, it is believed that the amendments to the Claims 1, 2, 4, 7, 8, and 10 have more particularly identified their metes and bounds, thereby fulfilling the requirements of 35 U.S.C. ¶112, second paragraph.

35 U.S.C. 102(b) Rejection

Again, the Applicants wish to thank Examiner Kovacs for participating in the July 21, 2004 telephone interview. During the interview, the Applicants and Examiner reviewed aspects of proposed claim amendments, which, as explained to the Examiner, would put pending Claims 1-14 in condition for allowance as being distinguishable over Hirsch.

Claims 1-3:

During the telephone conference, Applicants noted their desire to amend Claim 1 to more particularly define the invention. Accordingly, Applicants hereby amend Claim 1 to identify that the harvesting combine remains fully operational when the cab is in any one of a lowered "first position", raised "second position", or any position therebetween. Support for the amendment exists within the original specification as filed, for example on page 10, lines 9-12, where the Applicants have indicated that "there are several advantages associated with being able to raise and lower the cab. In particular, an operator can adjust the height of the cab relative to the remainder of the combine to improve the operator's comfort and vision" during operation of the combine. As such, no new matter has been added.

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In comparison, Fig. 2 of Hirsch clearly illustrates that when its cab is in the second position, the combine is not fully operational. Particularly if an operator were to sit in the seat of the operator's station in Fig. 2, the operator would clearly not be able to see forward through the roof of cab to operate the combine. Further, as stated in Hirsch at column 3, lines 7-9, "in the present instance, the operator's station during operation of the machine is enclosed by means of a cab supported on the platform"; in column 6, lines 20-21, "in order to return cab to its normal upright position in Fig. 1"; and at least in Claim 1, lines 48-51, "an operator station and a tilting cab normally enclosing said operator station and pivotally movable between a normal enclosing position [i.e. an operational position] and a transport position remote from said operator station...." Accordingly, it is clear, as the Examiner acquiesced during the telephone conference, that Fig. 1 of Hirsch illustrates the cab of the combine in a first, fully operational position and Fig. 2 illustrates the combine in a second, non-operational position.

Also during the telephone conference, Applicants and Examiner discussed the Examiner's statement that Hirsch includes a linkage assembly "capable of raising the cab relative to a frame portion and thus creating a space (as shown in Fig. 2) sufficient for the installation of the rotor or any other parts" as detailed by Applicants' Claims 1, 4, 7, 8, and 10. Focusing on Figs. 3 and 5 and 9 and 10 of the present invention, it can be seen that as the cab is raised from the first position (Figs. 3 and 5) to the second position (Figs. 9 and 10), a large opening is created between the top of the infeed mechanism and the bottom of the cab of the combine harvester. In contrast, it can be seen by Fig. 2 of Hirsch that when the cab is moved from the first position (Fig. 1) to the second position (Fig. 2), the opening between the top of the infeed mechanism and bottom of the cab is decreased (i.e. see area near lead line 86). Accordingly, it is clear, as

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acquiesced by the Examiner during the telephone conference, that one of ordinary skill in the art would not find sufficient space in Fig. 2 of Hirsch for the removal and installation of a rotor, whereby a typical rotor averages 30 inches in diameter and 8 feet in length.

It is thus believed that independent Claim 1 is distinguishable and patentable over Hirsch. Additionally, Claims 2-3, which depend from Claim 1, are also believed to be patentable over Hirsch as being dependent on an allowable base claim.

Claims 4-6, and 8-14:

In light of the Remarks set forth above regarding Claim 1, it is also believed that independent Claims 4, 8, and 10 are distinguishable and patentable over Hirsch. In addition, Claims 5-6; 9; and 11-14, which depend from Claims 4, 8, and 10, respectively, are also believed to be patentable over Hirsch as being dependent on an allowable base claim.

Claim 7:

Regarding Claim 7, during the July 21, 2004 telephone conversation with the Examiner, the Applicants noted a proposed amendment to Claim 7, which would include language indicating that the cab of the combine is disposed in a first orientation and located at a first position forwardly of the housing and operatively connected to the linkage assembly to allow the cab to be raised to a second position while remaining in the first orientation forwardly of the housing to allow the removal of the rotor from the combine underneath the cab.

Thus, as shown by Figs. 3 and 9 of the present invention, a specific point of the cab (i.e. the transparent panel indicated by lead line 34) remains in the same orientation with respect to its

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alignment about an associated X and Y axis between the lowered first position (Fig. 2), raised second position (Fig. 9), or any position therebetween. In contrast and in reference to Figs. 1 and 2 of Hirsch, a specific point of the cab (i.e. the front end indicated by lead line 32) does not remain in the same orientation with respect to its alignment about an associated X or Y axis between the first position (Fig. 1) and the second position (Fig. 2). Accordingly, it is clear, as the Examiner acquiesced during the telephone conference, that one of ordinary skill in the art would understand that the cab of the present invention remains in the same orientation between movement from the first position to the second position while the cab of Hirsch does not.

Finally, in light of the above Remarks in regard to Claim 1, it is clear that the Hirsch linkage assembly is not "capable of raising the cab relative to a frame portion and thus creating a space (as shown in Fig. 2) sufficient for the installation of the rotor or any other parts." It is thus believed that independent Claim 7 is distinguishable and patentable over Hirsch.

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In summary, and in light of the Applicants' claim amendments and Remarks, it is believed that Claims 1-14 are patentable and in condition for allowance. Therefore, favorable reconsideration of the application is respectfully requested. Should the Examiner believe that the prosecution of the application could be so expedited, he is requested to call Applicants' undersigned Attorney at the number listed below.

Respectfully submitted:

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